

Message Text

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ACTION EB-08

INFO OCT-01 EA-12 ISO-00 CAB-05 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 ITC-01
TRSE-00 /040 W
-----027011 230857Z /10
R 230813Z JUN 78
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 9055

UNCLAS SECTION 01 OF 02 TOKYO 11490

E.O. 11652: N/A
TAGS: EAIR, JA
SUBJECT: CIVAIR: ALLEGED DISCRIMINATION AGAINST U.S.
AIR-FREIGHT FORWARDERS

REF: TOKYO 10934

1. SUMMARY: MOFA HAS GIVEN US NOTE VERBALE REJECTING
CHANGE THAT U.S. AIR-FREIGHT FORWARDERS ARE DISCRIMINATED
AGAINST HERE. TRANSLATION OF NOTE FOLLOWS BELOW; EMBASSY
COMMENTS FOLLOW SEPTTEL. END SUMMARY.

2. MOFA HAS GIVEN US MILDLY-WORKED NOTE VERBALE REJECTING
U.S. VIEW THAT OUR AIR-FREIGHT FORWARDERS ARE DISCRIMINA-
TED AGAINST AND CALLING FOR PROMPT RENEWAL OF JAPANESE
CARRIER PERMITS.

3. EMBASSY TRANSLATION OF NOTE IS AS FOLLOWS:

- BEI HOKU 1 NO. 148
- JUNE 20, 1978

- NOTE VERBALE

THE MINISTRY OF FOREIGN AFFAIRS HAS THE HONOR TO CONVEY
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ITS RESPECTS TO THE EMBASSY OF THE UNITED STATES OF
AMERICA IN JAPAN, AND IN CONNECTION WITH THE SAID
EMBASSY'S REQUEST CONCERNING THE REQUEST FOR THE RENEWAL
OF BUSINESS PERMITS BY JAPANESE NATIONALS' INTERNATIONAL
AIR-FREIGHT ENTERPRISES IN THE UNITED STATES AND THE
TREATMENT OF AMERICAN ENTERPRISES IN THE SAME BUSINESS
IN OUR COUNTRY, HAS THE HONOR TO CONVEY THE VIEWS OF

THE JAPANESE AVIATION AUTHORITIES CONCERNED AS FOLLOWS:

1. THE JAPANESE SIDE UNDERSTANDS THAT, IN CONNECTION WITH THE APPLICATION FOR THE RENEWAL OF BUSINESS PERMITS MADE TO THE UNITED STATES' CIVIL AVIATION AUTHORITIES CONCERNED BY SEVEN COMPANIES OF JAPANESE INTERNATIONAL AIR-FREIGHT ENTERPRISES IN THE UNITED STATES, THE UNITED STATES SIDE HAS POINTED OUT THAT THERE ARE PROBLEMS IN REGARD TO THE STATE OF PROGRESS OF THE JAPAN-UNITED STATES AVIATION NEGOTIATIONS, AND IN THE JAPANESE SIDE'S WAY OF TREATING AMERICAN INTERNATIONAL AIR-FREIGHT ENTERPRISERS WHO ARE ENGAGING IN BUSINESS ACTIVITIES IN THIS COUNTRY, AND THAT IT IS STILL RESERVING THE GRANTING OF THE SAID PERMISSION, ON THE GROUNDS OF THESE PROBLEMATICAL POINTS.

HOWEVER, THE JAPANESE SIDE THINKS THAT BUSINESS ACTIVITIES BY THESE ENTERPRISERS IN BOTH JAPAN AND THE UNITED STATES WERE NOT ONLY A PROBLEM WHICH HAD NOT BEEN REFERRED TO AT THE JAPAN-UNITED STATES AVIATION NEGOTIATIONS, BUT ARE ALSO A PROBLEM WHICH HAS NO CONNECTION WHATSOEVER WITH THE SAID NEGOTIATIONS. IT ALSO THINKS THAT IT IS CLEAR THAT THERE ARE NO FACTS OF AMERICAN ENTERPRISERS BEING GIVEN DISCRIMINATORY TREATMENT, AS POINTED OUT BY THE UNITED STATES SIDE, IN OUR COUNTRY, AS WILL BE EXPLAINED BELOW, AND IT DESIRES THE UNITED STATES SIDE'S QUICKLY GRANTING PERMISSION FOR THE RENEWAL OF BUSINESS PERMITS TO JAPANESE ENTERPRISERS, WHICH PERMISSION IT HAS BEEN WITHHOLDING.

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2 (1). THE UNITED STATES SIDE SAYS THAT AMERICAN INTERNATIONAL AIR-FREIGHT ENTERPRISERS IN OUR COUNTRY ARE BEING TREATED WITH DISCRIMINATION, ON TWO POINTS, THAT IS, THE FACT THAT THEY ARE NOT GRANTED A LICENSE FOR OPERATING TRUCKING BUSINESS, AND THAT THEY ARE BEING DEMANDED TO MAKE APPLICATION AT THE SAME RATES AS JAPANESE ENTERPRISERS, AND IT HAS REQUESTED THE PROPER HANDLING OF THESE POINTS.

- (2). HOWEVER, IN REGARD TO THE GRANTING OF A LICENSE FOR THE TRUCKING BUSINESS, THE JAPANESE SIDE CONSIDERS THAT THE ENTERPRISERS' HAVING A CERTAIN DEGREE OF CAPABILITY AND SCALE, WHICH ARE SUFFICIENT FOR THE PROPER CONDUCTING OF THE SAID BUSINESS, WILL BRING ABOUT SOUND ENTERPRISE MANAGEMENT, AND THAT THIS, IN TURN, WILL ENSURE SAFE ROAD-TRANSPORT BUSINESS. FROM THIS STANDPOINT, THE JAPANESE SIDE APPLIES THE STANDARDS FOR THE GRANTING OF A LICENSE, BASED ON THE ROAD TRANSPORT LAW, EXACTLY IN THE SAME WAY, REGARDLESS OF WHETHER THEY ARE JAPANESE ENTERPRISERS OR FOREIGN ENTERPRISERS. THEREFORE, EVEN IF THERE SHOULD HAPPEN TO BE SOME AMERICAN ENTERPRISERS, WHO WERE UNABLE TO OBTAIN THE SAID LICENSE AS A RESULT OF THEIR NOT BEING

ABLE TO MEET THE REQUIREMENTS, DEMANDED UNDER THE SAID STANDARDS, IT CANNOT BUT BE SAID THAT TO POINT TO THIS FACT AND TO SAY THAT THEY ARE BEING GIVEN DISCRIMINATORY TREATMENT IS LACKING IN REASONABLENESS.

AS REGARDS INTERNATIONAL AIR-FREIGHT CHARGES, THE JAPANESE SIDE RESPECTS THE RESOLUTION OF IATA CONCERNING INTERNATIONAL AIR CHARGES, WHICH CONSTITUTE A LARGE PART OF THE ABOVE-MENTIONED CHARGES, AND ADOPTS THE POLICY OF A SINGLE CHARGE SYSTEM. CONSEQUENTLY, THE BASIC COSTS FOR INTERNA-

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TIONAL AIR-FREIGHT ENTERPRISERS CAN BE SAID TO BE THE SAME, AND THE JAPANESE SIDE APPROVES THE SAME CHARGE, BASED ON THE CIVIL AVIATION LAW, WHICH PRESCRIBES THE PREVENTION OF THE DISRUPTING OF ORDER IN THE CIRCLES CONCERNED, BY UNREASONABLE PRICE COMPETITION. THIS IS NOT DISCRIMINATORY TREATMENT TOWARD AMERICAN ENTERPRISES IN ANY WAY AT ALL.

- (3). CONSEQUENTLY, THE JAPANESE SIDE'S STANDARDS FOR THE GRANTING OF A LICENSE FOR THE TRUCKING BUSINESS AND THE APPLYING OF THE SAME CHARGE ARE BASED ON JAPAN'S POLICY TO THE EFFECT THAT THROUGH THE MAINTAINING OF THE SOUNDNESS OF THE ENTERPRISE, A STABLE SUPPLY OF SERVICE CAN BE SECURED. THEREFORE, EVEN THOUGH THIS POLICY WERE TO DIFFER FROM THE UNITED STATES' POLICY TOWARD INTERNATIONAL AIR-FREIGHT ENTERPRISERS, THERE IS NO REASON WHATSOEVER FOR IT TO BE SAID TO BE "DISCRIMINATORY TREATMENT," SO LONG AS FOREIGN ENTERPRISERS ARE GIVEN THE SAME TREATMENT AS JAPANESE ENTERPRISERS. RATHER, IN THE UNITED STATES, A TIME-LIMIT IS ATTACHED TO BUSINESS PERMITS FOR FOREIGN INTERNATIONAL AIR-FREIGHT ENTERPRISERS, TO THE EFFECT THAT PROCEDURES FOR RENEWAL MUST BE TAKEN WITHIN FIVE YEARS,

WHEREAS THERE IS VIRTUALLY NO NEED FOR SUCH PROCEDURES FOR AMERICAN ENTERPRISERS. IT IS CONSIDERED THAT THE VERY FACT THAT PROCEDURAL TREATMENT DIFFERS FOR ENTERPRISERS WITHIN THE SAME COUNTRY, DEPENDING ON WHETHER THEY ARE AMERICAN
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NATIONALS OR NOT, COMES UNDER THE CONCEPT OF "DISCRIMINATORY TREATMENT."

4. EMBASSY COMMENTS WILL FOLLOW SEPTTEL. MANSFIELD

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